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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :

TERRY V. LIEW, ET AL. :

EXAMINER: WOODWARD

SERIAL NO: 10/617,048 :

FILED: JULY 11, 2003 :

GROUP ART UNIT: 1711

FOR: COMPOSITION CONTAINING OIL, :
STRUCTURING POLYMER AND
COATED SILICONE ELASTOMER, AND
METHODS OF MAKING AND USING
THE SAME

DECLARATION UNDER 37 C.F.R. 1.132

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

I, Shaoxing Lu hereby declare:

1. I am employed by L'ORÉAL as an engineer and have experience in the field of preparing and analyzing cosmetic and/or dermatological compositions.

2. I am a named inventor of the above-identified application and I am familiar with the specification of the above-identified patent application.

3. The following observations and experiments were carried out by me or under my direct supervision and control.

4. The following experiments demonstrate that compositions containing a structuring polymer, an oil and silicone elastomer particles of a silicone rubber core coated with silicone resin are more stable while at the same time providing good textural properties when compared to compositions not containing all of these ingredients.

5. Three compact foundation compositions were prepared using Nylon-611/dimethicone copolymer (described in the specification on page 34) as representative of the structuring polymer defined in the claims of the above-identified application and KSP-100 (described in the specification on page 28) as representative of the silicone elastomer particles defined in the claims. The compositions were as follows:

Phase	Ingredients (% (w/w))	1	2	3
A	Oils	50.70	45.70	49.21
	Nylon-611/dimethicone copolymer	10.00	15.00	10.25
B	Pigments and fillers	39.30	39.30	39.40
	KSP-100	0	0	1.00
	GP-1	0	0	0.14

6. The texture of each of the compositions and their stabilities at 45°C were assessed.

7. Composition 1 while having a nice texture suitable for cosmetic purposes was not stable at 45 °C.

8. Composition 2 while having a higher stability at 45 °C compared to composition 1 had a hard texture making it unsuitable for cosmetic uses.

9. Surprisingly, composition 3 had both a nice texture suitable for cosmetic purposes and was stable at 45°C.

10. The results of these experiments demonstrated that the preparation of a composition combining a structuring polymer (using nylon-611/dimethicone copolymer as representative) and silicone elastomer particles of a silicone rubber core coated with silicone resin (using KSP-100 as representative) with oil surprisingly provides stable compositions which are suitable for cosmetic use (in terms of texture) compared to similar compositions containing only the structuring polymer. In addition, I have no reason to believe that the results obtained with nylon-611/dimethicone and KSP-100 as a representative of the

structuring polymer and coated silicone elastomer would not be similar for other combinations of as defined in the claims of the present application.

11. These results are important because they demonstrate that the combination of the components in the claimed composition has significant advantages as discussed above.

While the structuring polymer and the coated silicone elastomer were known separately for use in cosmetics, there was not a discussion of combining these nor that in combination these two components one could obtain a composition having the stability and texture properties observed for compositions as claimed.

12. The undersigned declares further that all statements made herein of his own knowledge are true and that all statements made on information and belief are believe to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application or any patent issuing thereon.

Shaoxing Lu

Signature

Date